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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,848	12/03/2003	Robert H. Wright	030364	5634
36192 7590 04/18/2008 CANTOR COLBURN LLP - BELL SOUTH 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER				
CARDENAS NAVIA, JAIME F				
ART UNIT		PAPER NUMBER		
3623				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/726,848

Applicant(s)

WRIGHT ET AL.

Examiner

Jaime F. Cardenas-Navia

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Introduction

1. This **NON-FINAL** office action is in response to applicant's submission filed on December 3, 2003. Currently, claims 1-29 are pending.

Drawings

2. **The drawings are objected to** because in Figure 2, the column heading "W_TPY" does not match the specification's labeling of the column, "W_Type". Examiner believes Figure 2 should be amended to match the specification.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. **Claim 1 is objected to** because of the following informalities:

In the last paragraph, “the activities computer” needs to be changed to “the activities-recording computer”, “the displayed to-do list” needs to be changed to “the displayed first to-do list”, and “the input device” needs to be changed to “the first input device” so that there is proper antecedent basis.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. **Claims 24-29 are rejected** under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. A “computer program” does not fall into one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter). Software, programming, instructions or code not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in a computer. When such descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases. Furthermore, software, programming, instructions or code not claimed as being computer executable are not statutory because they are not capable of causing functional change in a computer. In contrast, when a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer and the program, and the computer is capable of executing the program, allowing the program’s functionality to be realized, the program will be statutory.

For purposes of examination, the claims have been interpreted as a properly claimed computer program product.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. **Claims 1-3, 7-9, 12-14, 18-21, and 24-27 are rejected** under 35 U.S.C. 102(e) as being anticipated by Sinex (US 6,571,158 B2).

Regarding claim 1, Sinex teaches:

A system for measuring work productivity (col. 9, lines 17-19, employee efficiency is work productivity) comprising:

an activities-recording computer (col. 17, lines 9-13, client/server and Internet technologies are a web server, which is an activities-recording computer);

a first memory device in communication with the activities-recording computer, the first memory device having at least a first to-do list stored therein (col. 3, lines 29-31, col. 17, lines 9-16, memory is implied);

at least a first technician computer in communication with the activities-recording computer (col. 17, lines 9-16, implied by client/server), the first technician computer being operated by a first technician (col. 7, lines 35-46);

at least a first display monitor connected to the first technician computer (col. 7, lines 34-36, screen);

at least a first input device connected to the first technician computer (col. 7, lines 38-41);

and wherein the activities-recording computer retrieves the first to-do list from the first memory device and sends it to the first technician computer (col. 3, lines 29-31, col. 17, lines 9-13, means for are the client/server Internet technology), the first technician computer causing the first to-do list to be displayed on the first display monitor (col. 7, lines 34-37, Fig. 7), and wherein if the first technician selects an item on the displayed first to-do list with the first input device, the first technician computer sends an indication of the selection to the activities-recording computer and the activities-recording computer causes the indication to be stored in the first memory device (col. 9, lines 9-19, the start time associated with the selected task is recorded).

Regarding claim 2, Sinex teaches a network, the activities-recording computer and the first technician computer being connected to the network and being in communication with each other via the network (col. 17, lines 9-16, the internet is a network).

Regarding claim 3, Sinex teaches wherein the activities-recording computer is a web server and wherein the first technician computer runs a web browser program that displays the first to-do list in a window on the first display monitor (col. 17, lines 9-16, internet browser is a web browser, col. 3, lines 29-31, col. 7, lines 34-37, Fig. 7).

Regarding claim 7, Sinex teaches wherein the network is the Internet (col. 17, lines 9-16).

Regarding claim 8, Sinex teaches wherein if an item on the first to-do list is selected with the input device, a start time indication associated with the selected item is stored by the activities-recording computer along with the indication of the selection in the first memory device (col. 9, lines 9-22).

Regarding claim 9, Sinex teaches wherein if after an item is selected on the to-do list, a logoff option displayed on the first display monitor is selected with the first input device, the activities-recording computer stores a stop time indication associated with the item selected from the to-do list in the first memory device (col. 9, lines 9-22).

Regarding claims 12-14, 18-21, and 24-27, they are rejected using the same art and rationale used above for rejecting claims 1-3 and 7-9. This is because claims 12-14 and 18-21 claim a method for performing the steps of the system of claims 1-3 and 7-9, while claims 24-27 claim a computer program for performing the steps of the system of claims 1 and 8-9.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 10-11, 22-23, and 28-29 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Sinex (US 6,571,158 B2) in view of Ferriter (US 5,212,635).

Regarding claim 10, Sinex does not expressly teach wherein if after an item on the to-do list is selected, an exception option displayed on the first display monitor is selected with the first input device, the activities-recording computer stores an exception start time indication in the first memory device.

Ferriter teaches wherein if after an item on the to-do list is selected, an exception option displayed on the first display monitor is selected with the first input device, the activities-recording computer stores an exception start time indication in the first memory device (col. 5, lines 35-44, suspension is exception).

The inventions of Sinex and Ferriter pertain to monitoring work productivity. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as Ferriter does not teach away from or contradict Sinex, but rather, teaches a function that was not explicitly addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to combine the teachings,

motivated by the teaching of Sinex of recording work-in-progress notes, which are essentially exceptions that occur during task execution (col. 12, lines 43-53).

Regarding claim 11, Sinex teaches wherein if after an item on the to-do list is selected, a jeopardy option displayed on the first display monitor is selected, the activities- recording computer stores a jeopardy identifier in the first memory device (col. 13, lines 23-33, reason for delay is jeopardy identifier).

Regarding claims 22-23 and 28-29, they are rejected using the same art and rationale used above for rejecting claims 10-11. This is because claims 22-23 claim a method for performing the steps of the system of claims 10-11, while claims 28-29 claim a computer program for performing the steps of the system of claims 10-11.

12. **Claims 4-6 and 15-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over Sinex (US 6,571,158 B2).

Regarding claim 4, Sinex does not teach wherein the network is an intranet that uses a Transmission Control Protocol/Internet Protocol (TCP/IP) to transmit packets to IP addresses on the network.

Official notice is given that wherein the network is an intranet that uses a Transmission Control Protocol/Internet Protocol (TCP/IP) to transmit packets to IP addresses on the network is old and well-known. Additionally, the methods for implementing TCP/IP within an intranet network are old and well-known. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as official notice does not teach away from or contradict

Sinex, but rather, teaches a function that was not explicitly addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Sinex with official notice motivated by the advantage of using a standardized transfer protocol.

Regarding claim 5, Sinex does not teach wherein the network is a local area network (LAN).

Official notice is given that wherein the network is a local area network (LAN) is old and well-known. Additionally, the methods for implementing the network as a LAN are old and well-known. All the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, as official notice does not teach away from or contradict Sinex, but rather, teaches a function that was not explicitly addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Sinex with official notice motivated by the advantage of keeping the network local.

Regarding claim 6, Sinex does not teach wherein the network is a wide area network (WAN).

Official notice is given that wherein the network is a wide area network (WAN) is old and well-known. Additionally, the methods for implementing the network as a WAN are old and well-known. All the claimed elements were known in the prior art and one skilled in the art

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could have combined the elements as claimed by known methods with no change in their respective functions, as official notice does not teach away from or contradict Sinex, but rather, teaches a function that was not explicitly addressed. The claimed invention is merely a combination of old and well-known elements, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine Sinex with official notice motivated by the advantage of making the network more widely available.

Regarding claims 15-17, they are rejected using the same art and rationale used above for rejecting claims 4-6. This is because claims 15-17 claim a method for performing the steps of the system of claims 4-6.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Murray (US 4,413,277) teaches tracking the time spent by a person doing every task, but the tracking is through live video feed, not by the person working. Also teaches tracking exceptions, announcing what the exception is and at what time.

Srinivasan (US 5,548,506) teaches start/finish dates, dependencies, and reporting start/finish of tasks by email or fax over server.

Jilk et al. (US 6,938,048 B1) teaches monitoring productivity of workers by monitoring completion of tasks in real-time and storing task start and end time.

Clark (US 7,062,449 B1) teaches tracking worker productivity through maintaining a status of each task, a prediction of time required for each task, and actual time required for each task, and dependencies.

Kmack et al. (US 6,304,851 B1) teaches recording elapsed time, activity, and parameters, counts, and comments.

Fanjoy (US 5,842,181) teaches tracking duration of work assignments, and allows for comments to be added and data to be modified.

Sellie, Sr (US 5,557,553) teaches tracking time spent per task on handheld device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime F. Cardenas-Navia whose telephone number is (571)270-1525. The examiner can normally be reached on Mon-Thur, 9:30AM - 8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Van Doren, can be reached at (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 10, 2008

/J. C./
Examiner, Art Unit 3623
April 14, 2008

/Andre Boyce/
Patent Examiner, Art Unit 3623